

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 201

Introduced by Assembly Member Dymally

January 31, 2005

An act to ~~add Section 14087.34 to~~ amend Sections 14408 and 14413 of the Welfare and Institutions Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 201, as amended, Dymally. ~~Los Angeles County Health Authority.~~ Medi-Cal.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care services.

Existing law provides for a program under which Medi-Cal beneficiaries receive services through enrollment in prepaid health plans. These provisions prohibit door-to-door solicitation of Medi-Cal enrollees.

This bill would provide an exception from this prohibition for not-for-profit health plans with a Medi-Cal managed care enrollment of less than 100,000 members, under which, commencing January 1, 2006, the health plan may engage in door-to-door solicitation of Medi-Cal enrollees at any time the plan's membership is less than 100,000 members.

Existing law requires that all applications for disenrollment of Medi-Cal beneficiaries in a prepaid health plan be processed by the department. Existing law requires the department to issue a Medi-Cal card, effective not later than the beginning of the first calendar month following a full calendar month after the request for disenrollment

when Medi-Cal eligibility continues or Medi-Cal coverage is extended.

This bill would require the department to issue the Medi-Cal card, effective, instead, not later than and not before the beginning of the 3rd calendar month following a full calendar month after the request for disenrollment.

~~Existing law requires the County of Los Angeles to provide medical care to persons who are eligible to receive health care under state or federal law.~~

~~This bill would authorize the Board of Supervisors of the County of Los Angeles to establish a health authority to provide or contract for the provision of health care benefits to eligible persons.~~

~~This bill would make the authority responsible for oversight of local hospital services, ambulance medical services, public health services, and emergency medical services, and, pursuant to a resolution or ordinance of the board of supervisors, permit responsibility for oversight of school clinics, mental health services, and correctional health facilities, to the extent the county would provide those services.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14408 of the Welfare and Institutions
2 Code is amended to read:

3 14408. (a) Except as otherwise prohibited by law, a
4 contractor that has entered into a contract with the department
5 pursuant to this chapter may make the benefits known to
6 potential enrollees by methods approved by the department.

7 (b) (1) No prepaid health plan, marketing representative, or
8 marketing organization shall engage in marketing activities prior
9 to written submittal to and approval by the department. All
10 marketing activities, procedures, methods, and places in which
11 any activities will be conducted shall be explicitly described in a
12 marketing plan and approved by the department prior to being
13 used by a prepaid health plan, marketing representative, or
14 marketing organization. The marketing plan shall be updated and
15 submitted for renewed approval on an annual basis. The
16 department may approve, disapprove, or withdraw approval of
17 any marketing activity or procedure. The department shall

1 require the discontinuance of any marketing activity or procedure
2 for which the department withdraws approval. The conduct of
3 activities or procedures not included in an approved marketing
4 plan shall constitute a violation of this article and be subject to
5 sanctions in accordance with Section 14409.

6 ~~The prepaid~~

7 (2) *The prepaid* health plan shall be responsible for all
8 presentations by its marketing representatives and for their
9 ethical and professional conduct. The department may withdraw
10 certification for participation in the program from, and impose
11 marketing sanctions specified in Section 14409, as applicable, on
12 marketing representatives.

13 (c) The marketing plan shall meet the standards established by
14 the department. The marketing plan shall include, but not be
15 limited to, an explicit description of the specific marketing
16 activities, the method of identifying individual enrollments by
17 marketing representative, and formal measures to monitor
18 performance of marketing representatives and verify both of the
19 following:

20 (1) The prepaid health plan's marketing activities and
21 practices do not violate subdivision (a) of Section 14409.

22 (2) Beneficiaries receive complete and accurate information
23 about the benefits and limitations of receiving health care
24 services through the prepaid plan in a manner that considers the
25 beneficiary's level of comprehension.

26 (d) Each time a marketing representative presents information
27 about the benefits of prepaid health plan enrollment to a
28 beneficiary in order to encourage the beneficiary to enroll, the
29 marketing representative shall leave with the beneficiary printed
30 information identifying the marketing representative by name
31 and prepaid health plan represented.

32 (e) All printed or illustrated material prepared by the prepaid
33 health plan for dissemination to enrollees or to prospective
34 enrollees shall be submitted to the department prior to
35 dissemination. The department shall acknowledge receipt of the
36 printed or illustrated material within five days, and shall approve
37 or disapprove the material for dissemination within 60 days after
38 the date of notification that the material has been received. The
39 department may withdraw approval of the material previously
40 approved and order its dissemination discontinued. If the

1 department notifies the prepaid health plan of its disapproval or
2 withdrawal of approval, the prepaid health plan shall have the
3 right to meet and confer with the director or his or her designee
4 and demonstrate the purpose and reasonable basis for the
5 distribution of the material to enrollees and potential enrollees.

6 (f) (1) Any form of door-to-door or in-person marketing that
7 coerces or misleads beneficiaries or selectively enrolls
8 beneficiaries on the basis of their health status is unlawful. In
9 addition, on or after July 1, 1996, door-to-door solicitation of
10 Medi-Cal enrollees shall not be permitted, *except in the case of*
11 *not-for-profit health plans with a Medi-Cal managed care*
12 *enrollment of less than 100,000 members, which, commencing*
13 *January 1, 2006, may engage in door-to-door solicitation at any*
14 *time their membership is less than 100,000 members.*

15 (2) On or after July 1, 1996, the health care options
16 presentation required by Sections 14016.5 and 14016.6 or the
17 health care options information required by Sections 14087.305
18 and 14089 shall be fully operational in counties specified by the
19 director for expansion of the Medi-Cal managed care program or
20 in counties where prepaid health plans are contracting with the
21 department pursuant to Sections 14018.7, 14087.31, 14087.35,
22 14087.36, 14087.38, 14087.96, 14089, and 14089.05. In these
23 counties, on or after July 1, 1996, no enrollment of beneficiaries
24 by prepaid health plans shall occur during in-person marketing
25 activities or during health fairs pursuant to paragraph (5) of
26 subdivision (f). Enrollment shall be exclusively performed and
27 transmitted pursuant to the program required by Sections
28 14016.5, 14016.6, 14087.305, and 14089.

29 (3) In the event the health care options presentation required
30 by Sections 14016.5 and 14016.6 is not fully operational or the
31 health care options information required by Sections 14087.305
32 and 14089 is not fully available, as specified in paragraph (2) of
33 subdivision (f), the department shall perform the enrollment-only
34 functions until the health care options presentation or information
35 is fully operational or available.

36 (4) Nothing in this section shall preclude a prepaid health plan
37 from responding to inquiries initiated by beneficiaries or
38 potential beneficiaries.

39 (5) Until July 1, 1996, a prepaid health plan may participate in
40 an organized community or neighborhood health fair in a public

place only if two or more prepaid health plans are participating, or if the plan is invited by the sponsor of the fair. If there are not two or more prepaid health plans providing services to Medi-Cal beneficiaries in a prepaid health plan's service area, this subdivision shall not apply. On or after July 1, 1996, a prepaid health plan may participate in an organized community or neighborhood health fair in a public place for marketing purposes.

(g) Any prepaid health plan, marketing representative, or marketing organization that violates subdivision (f) shall be subject to the sanctions set forth in subdivision (b) of Section 14409 and shall be guilty of a misdemeanor and subject to a fine of five hundred dollars (\$500) or imprisonment in a county jail for six months, or both, for each violation.

(h) The department shall certify each marketing representative prior to participation in the program in accordance with standards established by the department. Continuing certification for participation in the program shall be contingent upon compliance with this article, as well as guidelines and standards adopted by the department, and may be withdrawn upon their violation, as determined by the department. The department may temporarily decertify any marketing representative when that action is necessary to protect the public welfare or the interests of the Medi-Cal program. Temporary decertification shall be effective immediately upon written notice to the marketing representative and the managed care contractor, and shall remain in effect until the department has made a determination on the merits. Temporary decertification shall be canceled unless the department acts to permanently withdraw certification within 60 days.

(i) No prepaid health plan shall employ in any capacity relating to the marketing operations of the plan a marketing representative whose certification has been withdrawn. Marketing representatives shall not be recertified for participation until the cause for withdrawal of certification has been corrected to the satisfaction of the department. Proof of correction shall be the sole responsibility of the marketing representative.

SEC. 2. Section 14413 of the Welfare and Institutions Code is amended to read:

1 14413. (a) Requests for disenrollment shall be made to an
2 authorized representative of the prepaid health plan or to the
3 department. All requests for disenrollment, except those
4 submitted pursuant to ~~Sections 14303.1(e), 14303.2(e), or~~
5 ~~14409(b)(5) subdivision (c) of Sections 14303.1 and 14303.2, or~~
6 ~~paragraph (5) of subdivision (b) of Section 14409,~~ or for other
7 good cause as determined by the director, shall be processed
8 through the prepaid health plan's grievance procedure as
9 approved by the department. Disenrollment requests received by
10 the prepaid health plan shall be submitted to the department, on
11 standard disenrollment forms prescribed by the department,
12 within a reasonable time following the date of such signed
13 request, as determined by the director, to permit the department
14 to terminate enrollment effective the beginning of the first
15 calendar month following a full calendar month after the request
16 is made.

17 (b) All applications for disenrollment shall be processed by the
18 department, and where Medi-Cal eligibility continues or
19 Medi-Cal coverage is extended under Section 14005.8, a
20 Medi-Cal card shall be issued effective not later than *and not*
21 *before* the beginning of the ~~first~~ *third* calendar month following a
22 full calendar month after the request for disenrollment is made.
23 Submittal of a request for disenrollment for processing through
24 the grievance procedure of a prepaid health plan shall not be
25 deemed to infringe on this entitlement.

26 ~~SECTION 1. Section 14087.34 is added to the Welfare and~~
27 ~~Institutions Code, to read:~~

28 ~~14087.34. (a) Because of the unique circumstances that exist~~
29 ~~in the County of Los Angeles, it is necessary that the Board of~~
30 ~~Supervisors of the County of Los Angeles be given authority to~~
31 ~~establish a health authority separate and apart from the County of~~
32 ~~Los Angeles as a means for the delivery of medical care and~~
33 ~~services to the Medi-Cal population and to other populations~~
34 ~~receiving health care services from the County of Los Angeles.~~
35 ~~Thus, the adoption of a special act is required.~~

36 ~~(b) (1) The Board of Supervisors of the County of Los~~
37 ~~Angeles may, by ordinance, establish a health authority separate~~
38 ~~and apart from the County of Los Angeles, whose governing~~
39 ~~board is appointed pursuant to this section. The governing board~~
40 ~~shall consist of 13 members and shall include the following~~

1 ~~members, who shall be appointed by resolution or ordinance of~~
2 ~~the board:~~

3 ~~(A) Five members who shall be designated by the Los Angeles~~
4 ~~board of supervisors:~~

5 ~~(B) Three members who shall be nominated by the Governor:~~

6 ~~(C) One member who shall be nominated by the Speaker of~~
7 ~~the Assembly:~~

8 ~~(D) One member who shall be nominated by the Senate~~
9 ~~Committee on Rules:~~

10 ~~(E) One member who shall be nominated by the Governor~~
11 ~~from the University of California:~~

12 ~~(F) One member who shall be nominated by the Governor~~
13 ~~from the University of Southern California:~~

14 ~~(G) One member who shall be nominated by the Governor~~
15 ~~from the Charles R. Drew University of Medicine and Science:~~

16 ~~(H) One member who shall be appointed by the Health~~
17 ~~Authority from the Los Angeles County community:~~

18 ~~(2) The health authority shall be responsible for oversight of~~
19 ~~local hospital services, ambulance medical services, public health~~
20 ~~services, and emergency medical services, and may, by~~
21 ~~resolution or ordinance of the board, be responsible for oversight~~
22 ~~of school clinics, mental health services, and correctional health~~
23 ~~facilities, to the extent the county would provide those services:~~

24 ~~(3) The health authority shall be responsible the establishment~~
25 ~~and maintenance of standards of care within facilities operated by~~
26 ~~the health authority that are consistent with prevailing~~
27 ~~community health care standards, and for the maintenance and~~
28 ~~improvement of health facilities operated by the health authority,~~
29 ~~including, but not limited to, facilities leased by the authority~~
30 ~~from the county:~~

31 ~~(4) The health authority shall establish a mutually beneficial~~
32 ~~working relationship with professional schools in the Los~~
33 ~~Angeles area:~~

34 ~~(e) The governing board of the health authority and the~~
35 ~~appropriate state departments, to the extent permitted by federal~~
36 ~~law, may negotiate and enter into contracts to provide or arrange~~
37 ~~for health care services for any or all persons who are eligible to~~
38 ~~receive benefits under the Medi-Cal program and for other~~
39 ~~targeted populations. The contracts may be on an exclusive or~~
40 ~~nonexclusive basis, and shall include payment provisions on any~~

1 basis negotiated between the state and health authority. Prior to
2 the commencement of operations, the health authority shall be
3 licensed as a health care service plan pursuant to the
4 Knox-Keene Health Care Services Plan Act of 1975 (Chapter 2.2
5 (commencing with Section 1340) of Division 2 of the Health and
6 Safety Code).

7 (d) (1) The board of supervisors may transfer responsibility
8 for administration of county-provided health care services to the
9 health authority for the purpose of service of populations
10 including uninsured and indigent persons subject to the
11 provisions of any ordinances or resolutions passed by the board
12 of supervisors. The transfer of administrative responsibility for
13 those health care services shall not relieve the county of its
14 responsibility for indigent care pursuant to Section 17000. In
15 addition, the services and programs of the health authority may
16 include, but are not limited to, individuals covered under Title
17 XVIII of the Social Security Act, contained in Subchapter XVIII
18 (commencing with Section 1395) of Chapter 7 of Title 42 of the
19 United States Code, and individuals and groups employed by
20 public agencies and private businesses.

21 (2) In addition to providing health care services to those
22 populations described in paragraph (1) and in subdivision (c), the
23 authority shall be responsible for the provision of appropriate
24 health care services for persons who need specialized services at
25 facilities operated by the authority, including, but not limited to,
26 burn, trauma, and infectious disease care.

27 (e) As a legal entity separate and apart from the County of Los
28 Angeles, the health authority shall file the statement required by
29 Section 53051 of the Government Code, and shall have the
30 power to acquire, possess, and dispose of real or personal
31 property as may be necessary for the performance of its
32 functions, to sue or be sued, and to employ personnel and
33 contract for services required to meet its obligations.

34 (f) (1) The health authority shall be deemed to be a legal
35 entity separate and apart from the County of Los Angeles, and
36 shall not be considered to be an agency, division, department, or
37 instrumentality of the County of Los Angeles.

38 (2) The health authority shall not be governed by, nor be
39 subject to, the Charter of the County of Los Angeles and shall not

1 be subject to county policies or operational rules, including, but
2 not limited to, those relating to personnel and procurement.

3 ~~(g) The health authority shall be considered a public entity,~~
4 ~~and employees of the health authority shall be considered public~~
5 ~~employees, for purposes of Division 3.6 (commencing with~~
6 ~~Section 810) of Division 3.6 of Title 1 of the Government Code,~~
7 ~~relating to claims and actions against public entities and public~~
8 ~~employees. Members of the governing board of the health~~
9 ~~authority shall not be vicariously liable for injuries caused by the~~
10 ~~act or omission of the health authority or advisory body to the~~
11 ~~extent that protection applies to members of governing boards of~~
12 ~~local public entities generally under Section 820.9 of the~~
13 ~~Government Code.~~

14 ~~(h) Upon the enactment of the ordinance, all rights, powers,~~
15 ~~duties, privileges, and immunities vested in the County of Los~~
16 ~~Angeles with respect to the subject matter of this section shall be~~
17 ~~vested in the health authority. Any obligation of the health~~
18 ~~authority, statutory, contractual, or otherwise, shall be the~~
19 ~~obligation solely of the health authority and shall not be the~~
20 ~~obligation of the County of Los Angeles or the state.~~

21 ~~(i) The health authority shall not be a “person” subject to suit~~
22 ~~under the Cartwright Act, Chapter 2 (commencing with Section~~
23 ~~16700) of Part 2 of Division 7 of the Business and Professions~~
24 ~~Code.~~

25 ~~(j) The health authority established pursuant to this section~~
26 ~~may borrow from the county and the county may lend the health~~
27 ~~authority funds, or issue revenue anticipation notes to obtain~~
28 ~~those funds necessary to commence operations.~~

29 ~~(k) The health authority or the county, or both, may engage in~~
30 ~~marketing, advertising, and promotion of the medical and health~~
31 ~~care services made available to the target populations by the~~
32 ~~health authority.~~

33 ~~(l) Provisions for the termination of the health authority’s~~
34 ~~activities with respect to the delivery of services to Medi-Cal~~
35 ~~populations shall be contained in the appropriate contracts~~
36 ~~executed by and between the health authority and the appropriate~~
37 ~~state departments.~~

38 ~~(m) If the board of supervisors expands publicly assisted~~
39 ~~medical and health care delivery by the health authority to other~~
40 ~~populations, and the board of supervisors subsequently~~

1 determines that the health authority may no longer function for
2 the purpose of the expanded delivery, at the time as the health
3 authority's existing obligations with respect thereto have been
4 satisfied, the board of supervisors may, by ordinance, terminate
5 the expanded delivery activities of the health authority.

6 ~~(n) All assets of the health authority that are related to~~
7 ~~Medi-Cal services shall be disposed of pursuant to the Medi-Cal~~
8 ~~related contract entered into between the state and the health~~
9 ~~authority.~~

10 ~~(o) All liabilities or obligations of the health authority with~~
11 ~~respect to its activities pursuant to the state-mandated two-plan~~
12 ~~managed care model for the delivery of medical care and services~~
13 ~~to the Medi-Cal population shall be the liabilities or obligations~~
14 ~~of the health authority, and shall not become the liabilities or~~
15 ~~obligations of the county upon the termination of the health~~
16 ~~authority or at any other time. Any liabilities or obligations of the~~
17 ~~health authority with respect to the liquidation or disposition of~~
18 ~~the health authority's assets upon termination of the health~~
19 ~~authority shall not become the liabilities or obligations of the~~
20 ~~county, except that the county shall manage any remaining~~
21 ~~Medi-Cal related assets of the health authority until superseded~~
22 ~~by a plan approved by the department.~~

23 ~~(p) The Legislature finds and declares that Section 14105~~
24 ~~provides that the Director of Health Services prescribe the~~
25 ~~policies for the administration of Medi-Cal managed care~~
26 ~~contracts. The state-mandated two-plan managed care model~~
27 ~~distributed by the director sets forth that policy, expressly~~
28 ~~providing that local stakeholders, including government officials,~~
29 ~~providers, and community-based organizations, are afforded~~
30 ~~maximum flexibility and control in designing a delivery system~~
31 ~~that reflects the needs and priorities of the community that it~~
32 ~~serves. The mandated model requires that the governing board of~~
33 ~~the local initiative reflect an effort to include representation of~~
34 ~~the perspectives of provider and beneficiary groups. To~~
35 ~~effectuate this policy, all of the following shall apply:~~

36 ~~(1) Notwithstanding any provision of law to the contrary, a~~
37 ~~member of the governing board of the health authority shall be~~
38 ~~deemed not to be interested in a contract entered into by the~~
39 ~~health authority within the meaning of Article 4 (commencing~~

1 with Section 1090) of Chapter 1 of Division 4 of Title 1 of the
2 Government Code if all the following apply:

3 (A) The member was appointed to represent the interests of
4 physicians, health care practitioners, hospitals, pharmacies, or
5 other health care organizations.

6 (B) The contract authorizes the member or the organization
7 the member represents to provide services to beneficiaries or
8 administrative services under the health authority's programs.

9 (C) The contract contains substantially the same terms and
10 conditions as contracts entered into with other individuals or
11 organizations that the member was appointed to represent.

12 (D) The member does not influence or attempt to influence the
13 health authority or another member of the health authority to
14 enter into the contract in which the member is interested.

15 (E) The member discloses the interest to the health authority
16 and abstains from voting on the contract.

17 (F) The health authority notes the member's disclosure and
18 abstention in its official records and authorizes the contract in
19 good faith by a vote of its membership sufficient for the purpose
20 without counting the vote of the interested member.

21 (2) Notwithstanding Article 4.7 (commencing with Section
22 1125) of Chapter 1 of Division 4 of Title 1 of the Government
23 Code related to incompatible activities, no member of the
24 governing board, no officer, and no member of the alliance staff
25 shall be considered to be engaged in activities inconsistent and
26 incompatible with his or her duties as a governing board member,
27 officer, or staff person solely as a result of employment or
28 affiliation with the county, private hospital, clinic, pharmacy,
29 other provider group, employee organization, or citizen's group.

30 (q) (1) The health authority may use a computerized
31 management information system in connection with the
32 administration of its health delivery system, including the
33 administration of the state-mandated two-plan Medi-Cal
34 managed care model.

35 (2) Information maintained in the management information
36 system that pertains to persons who are Medi-Cal applicants or
37 recipients shall be confidential pursuant to Section 14100.2, and
38 shall not be open to examination other than for purposes directly
39 connected with the administration of the Medi-Cal program,
40 including, but not limited to, those set forth in subdivision (c) of

1 Section 14100.2. This safeguarded information includes, but is
2 not limited to, names and addresses, medical services provided,
3 social and economic conditions or circumstances, health
4 authority evaluation of personal information, and medical data,
5 including diagnosis and past history of disease or disability.

6 (3) Information maintained in the management information
7 system that pertains to peer review related activities shall be
8 confidential and subject to the full protections of the law with
9 respect to the confidentiality of activities related to peer review
10 generally.

11 (r) The records of the health authority, whether paper records,
12 records maintained in the management information system, or
13 records in any other form, that relate to rates of payment,
14 including records relating to rates of payment determination,
15 allocation or distribution methodologies, formulas or
16 calculations, and records of the health authority that relate to
17 contract negotiations with providers of health care for alternative
18 rates, shall not be subject to disclosure pursuant to the California
19 Public Records Act (Chapter 3.5 (commencing with Section
20 6250) of Division 7 of Title 1 of the Government Code). The
21 transmission of the records, or the information contained therein
22 in an alternative form, to the board of supervisors shall not
23 constitute a waiver of exemption from disclosure, and the records
24 and information, once transmitted to the board of supervisors,
25 shall be subject to this same exemption.

26 (s) (1) (A) Notwithstanding the Ralph M. Brown Act
27 (Chapter 9 (commencing with Section 54950) of Part 1 of
28 Division 2 of Title 5 of the Government Code), the governing
29 board of the health authority may meet in closed session for the
30 purpose of discussion of, or taking action on matters involving,
31 health authority trade secrets.

32 (B) The requirement that the authority make a public report of
33 actions taken in closed session and the vote or abstention of
34 every member present may be limited to a brief general
35 description of the action taken and the vote so as to prevent the
36 disclosure of a trade secret.

37 (C) For purposes of this subdivision, "health authority trade
38 secret" means a trade secret, as defined in subdivision (d) of
39 Section 3426.1 of the Civil Code, that also meets both of the
40 following criteria:

1 ~~(i) The secrecy of the information is necessary for the health~~
2 ~~authority to initiate a new service, program, marketing strategy,~~
3 ~~business plan, or technology, or to add a benefit or product.~~

4 ~~(ii) Premature disclosure of the trade secret would create a~~
5 ~~substantial probability of depriving the health authority of a~~
6 ~~substantial economic benefit or opportunity.~~

7 ~~(2) Those records of the health authority that reveal the health~~
8 ~~authority's trade secrets are exempt from disclosure pursuant to~~
9 ~~the California Public Records Act (Chapter 3.5 (commencing~~
10 ~~with Section 6250) of Division 7 of Title 1 of the Government~~
11 ~~Code), or any similar local law requiring the disclosure of public~~
12 ~~records. This exemption shall apply for a period of two years~~
13 ~~after the service, program, marketing strategy, business plan,~~
14 ~~technology, benefit, or product that is the subject of the trade~~
15 ~~secret is formally adopted by the governing body of the health~~
16 ~~authority, provided that the service, program, marketing strategy,~~
17 ~~business plan, technology, benefit, or product continues to be a~~
18 ~~trade secret. The governing board may delete the portion or~~
19 ~~portions containing trade secrets from any documents that were~~
20 ~~finally approved in the closed session held pursuant to paragraph~~
21 ~~(1) that are provided to persons who have made the timely or~~
22 ~~standing request.~~

23 ~~(3) Nothing in this section shall be construed as preventing the~~
24 ~~governing board from meeting in closed session as otherwise~~
25 ~~provided by law.~~

26 ~~(t) Open sessions of the health authority shall constitute~~
27 ~~official proceedings authorized by law within the meaning of~~
28 ~~Section 47 of the Civil Code, and those privileges set forth in that~~
29 ~~section with respect to official proceedings shall apply to open~~
30 ~~sessions of the health authority.~~

31 ~~(u) The health authority shall be considered a public agency~~
32 ~~for purposes of eligibility with respect to grants and other~~
33 ~~funding and loan guarantee programs. Contributions to the health~~
34 ~~authority shall be tax deductible to the extent permitted by state~~
35 ~~and federal law.~~

36 ~~(v) Any transfer of functions from county employee~~
37 ~~classifications to a health authority established pursuant to this~~
38 ~~section shall result in the recognition by the health authority of~~
39 ~~the employee organization that represented the classifications~~
40 ~~performing those functions at the time of the transfer.~~

~~(w) (1) The health authority shall implement, and the board of supervisors shall adopt, a personnel transition plan. The personnel transition plan shall require all of the following:~~

~~(A) Ongoing communications to employees and recognized employee organizations regarding the impact of the transition on existing health care employees and employee classifications.~~

~~(B) Meeting and conferring on all of the following issues:~~

~~(i) The timeframe for which the transfer of personnel shall occur. The timeframe shall be subject to modification by the board of supervisors as appropriate, but in no event shall it exceed one year from the effective date of transfer of governance from the board of supervisors to the health authority.~~

~~(ii) A specified period of time during which employees of the county impacted by the transfer of governance may elect to be appointed to vacant positions with the Los Angeles County Department of Health Care Services Agency for which they have tenure.~~

~~(iii) A specified period of time during which employees of the county impacted by the transfer of governance may elect to be considered for reinstatement into positions with the county for which they are qualified and eligible.~~

~~(iv) Compensation for vacation leave and compensatory leave accrued while employed with the county in a manner that grants affected employees the option of either transferring balances or receiving compensation to the degree permitted employees laid off from service with the county.~~

~~(v) A transfer of sick leave accrued while employed with the county to health authority employment.~~

~~(vi) The recognition by the health authority of service with the county in determining the rate at which vacation accrues.~~

~~(vii) The preservation of seniority, pensions, health benefits, and other applicable accrued benefits of employees of the county impacted by the transfer of governance.~~

~~(2) Nothing in this subdivision shall be construed as prohibiting the health authority from determining the number of employees, the number of full-time equivalent positions, the job descriptions, and the nature and extent of classified employment positions.~~

~~(3) Employees of the health authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title~~

1 ~~1 of the Government Code relating to claims and actions against~~
2 ~~public entities and public employees.~~

3 ~~(x) Any health authority created pursuant to this section shall~~
4 ~~be bound by the terms of the memorandum of understanding~~
5 ~~executed by and between the county and health care and~~
6 ~~management employee organizations that is in effect as of the~~
7 ~~date this legislation becomes operative in the county. Upon the~~
8 ~~expiration of the memorandum of understanding, the health~~
9 ~~authority shall have sole authority to negotiate subsequent~~
10 ~~memorandums of understanding with appropriate employee~~
11 ~~organizations. Subsequent memorandums of understanding shall~~
12 ~~be approved by the health authority.~~

13 ~~(y) Contracts by and between the health authority and the~~
14 ~~state, and contracts by and between the health authority and~~
15 ~~providers of health care, goods, or services may be let on a~~
16 ~~nonbid basis, and shall be exempt from Chapter 2 (commencing~~
17 ~~with Section 10290) of Part 2 of Division 2 of the Public~~
18 ~~Contract Code.~~

19 ~~(z) (1) Provisions of the Evidence Code, the Government~~
20 ~~Code, including the California Public Records Act (Chapter 3.5~~
21 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~
22 ~~Government Code), the Civil Code, the Business and Professions~~
23 ~~Code, and other applicable law pertaining to the confidentiality~~
24 ~~of peer review activities of peer review bodies shall apply to the~~
25 ~~peer review activities of the health authority. Peer review~~
26 ~~proceedings shall constitute an official proceeding authorized by~~
27 ~~law within the meaning of Section 47 of the Civil Code, and~~
28 ~~those privileges set forth in that section with respect to official~~
29 ~~proceedings shall apply to peer review proceedings of the health~~
30 ~~authority. If the health authority is required by law or contractual~~
31 ~~obligation to submit to the state or federal government peer~~
32 ~~review information or information relevant to the credentialing of~~
33 ~~a participating provider, that submission shall not constitute a~~
34 ~~waiver of confidentiality. The laws pertaining to the~~
35 ~~confidentiality of peer review activities shall be together~~
36 ~~construed as extending, to the extent permitted by law, the~~
37 ~~maximum degree of protection of confidentiality.~~

38 ~~(2) Notwithstanding any other provision of law, Section 1461~~
39 ~~of the Health and Safety Code shall apply to hearings on the~~

- 1 ~~reports of hospital medical audit or quality assurance committees~~
2 ~~as they relate to network providers or applicants.~~
3 ~~(aa) (1) The health authority shall carry general liability~~
4 ~~insurance to the extent sufficient to cover its activities, and shall~~
5 ~~establish and maintain a vigorous risk management program.~~
6 ~~(2) The board of supervisors shall maintain insurance for~~
7 ~~errors and omissions coverage for any service responsibilities to~~
8 ~~be transferred to the health authority until the transfer of those~~
9 ~~responsibilities is completed.~~
10 ~~(3) The health authority shall guarantee the collective~~
11 ~~bargaining rights of its employees.~~
12 ~~(4) The employees of the health authority shall maintain the~~
13 ~~years of service with the county and maintain their retirement~~
14 ~~rights and their seniority rights.~~